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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/579,291	10/27/2006	Christian Gerk	PO8807/STA-236	7062
23416	7590	04/04/2008	EXAMINER	
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WILMINGTON, DE 19899				
			ART UNIT	PAPER NUMBER
			1794	
			MAIL DATE	DELIVERY MODE
			04/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/579,291	Applicant(s) GERK, CHRISTIAN	
	Examiner H. T. Le	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-27 is/are pending in the application.
- 4a) Of the above claim(s) 22-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-21 and 27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

2. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 12-21, drawn to tungsten carbide powder and its use.

Group II, claim(s) 22-26, drawn to method of making powder.

3. The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Here, the common feature between the two groups is powder particles comprising a core of cast tungsten carbide ("cWC") and a coating of tungsten monocarbide ("WC"). This common feature is not inventive because it is known in the art as illustrated in the prior art rejection herein. Therefore, Groups I and II do not relate to a single general inventive concept.
4. Newly submitted claims 22-26 directed to an invention that is independent or distinct from the invention originally claimed for the reasons set forth above.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for

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prosecution on the merits. Accordingly, claims 22-26 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Specification

6. The abstract of the disclosure is objected to because the Description to the drawings is missing. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102/103

7. Claims 12, 15 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Massey et al (US 6,248,149).

Massey teaches a pellet comprising cast tungsten (WC/W₂C) core and a coating layer of WC. See col. 3, lines 62-63 and col. 5, lines 41-44. The particle size is recited in claim 5 as from 40-80 mesh which is equivalent to 178-422 μm. The particle size is also reported to be 16-129 mesh (16mesh=1200 μm) before coating (col. 4, lines 39-44). The powder is used in an earth-boring bit.

8. Claims 13, 14, and 16-21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Massey et al (US

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6,248,149). Massey teaches a tungsten carbide powder comprising a core of cWC and a coating of WC as discussed above. Massey does not report the content of bound carbon; however, it is inherent because the coating is formed by heating and carburizing which is the same method described in the instant specification. See Massey, col. 5, lines 7-9. The particle size is reported in claim 5 as from 40-80 mesh which is equivalent to 178-422 μm . The particle size is reported to be 16-129 mesh (16mesh=1200 μm) before coating (col. 4, lines 39-44). The shell thickness and hardness are considered met by inherence because the tungsten powder of Massey comprises the same components and made by the same carburizing method as those of the claimed invention.

In the alternative, it would have been obvious to arrive at the content of carbon coating through routine carburizing experimentation. The particle size is reported to be 16-129 mesh (which is up to 1200 μm) but can be of a larger or smaller size (col. 4, lines 39-44); therefore, one of ordinary skill in the art would have found it obvious to vary the particle size depending on the desired end result. It would have been obvious to desire a sharp-edge crushed shape for the particles if the particles are applied in cutting or abrading technology.

Response to Arguments

9. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection set forth above.

10. Other references are cited as art of interest.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to H. T. Le whose telephone number is 571-272-1511.

The examiner can normally be reached on 9:30 a.m. to 6:00 p.m., Mondays to Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. Thi Le/
H. (Holly) T. Le
Primary Examiner
Art Unit 1794

March 31, 2008